APPENDIX

Copies of the pertinent portions of "Maximum Price Regulation No. 165, as amended—services" as same appear in 7 F. R. 648, et seq.

1499.101 Prohibition against dealing in services above maximum prices. On and after July 1, 1942, regardless of any contract or other obligation:

(a) Sales. No "person" shall "sell" or supply any of the "services" set forth in paragraph (c) of this section at a price higher than the maximum price permitted by this Maximum Price Regulation No. 165 as amended.

* * *

(c) Services covered. This Maximum Price Regulation No. 165, as amended shall apply to all rates and charges for the following services, except when such services are rendered as an employee.

* * *

(4) Automotive vehicles (including but not limited to automobiles, buses, motorcycles, semitrailers, tractors, trailers, and trucks—lubrication, maintenance, painting, rental, repair, storage (including but not limited to dead storage and parking), towing, washing or other servicing of (including but not limited to maintenance, rental or repair of accessories or parts such as batteries, radios, tires, or tubes, and including but not limited to pick-up and delivery and mounting and demounting of tires and use of loaned tires and tubes but not including retreading or recapping of tires or any service rendered in connection with a sale of tires or tubes or with the retreading or recapping of tires): Provided, That in the case of any of the foregoing services for which a charge is

authorized by any rationing order or rationing regulations issued by the Office of Price Administration, the maximum price hereunder shall be the highest price authorized by such rationing order or regulations.

* * *

1499.102 Maximum Prices for Services: General Provisions. Except as otherwise provided in Maximum Price Regulation No. 165, as amended, the seller's maximum price for any service to which this Maximum Price Regulation No. 165, as amended, is applicable shall be:

(a) The highest price charged during March, 1942 (as defined in this section) by the seller—

(1) For the same service: or

(2) If no charge was made for the same service, for the similar service most nearly like it;

Provided, however, That if the seller in computing his prices during March, 1942, regularly used a rate or a "pricing method" including specific charges for particular items in the service rendered, the price resulting from proper application (i) of the highest such rate in effect during March, 1942, or (ii) of such pricing method, using the highest charges in effect during March, 1942, shall be deemed to be the highest price charged by the seller during that month for any service to which the rate or pricing method was then applicable or by usual trade practice would have been applicable had the service been offered in March, 1942, and shall be the seller's maximum price for any such service; Provided, further That a person engaged in commission selling, auctioneering, or the brokerage of commodities may continue to determine his maximum price by the use of the highest percentage rate he used during March, 1942, in connection with the sale

of the particular commodity, or, when the same or a similar commodity was not sold or purchased by him in March, 1942, he may use such highest percentage rate used in the same calendar month of 1941 as the month in which he is presently supplying the service; or

(b) If the seller's maximum price cannot be determined under paragraph (a), the maximum price of the "most closely competitive seller of the same class"—

(1) For the same service; or

(2) If such competitive seller has no maximum price for the same service, for the similar service most nearly like it; or

(c) If the seller's maximum price cannot be determined under paragraphs (a) or (b) of this section, a price determined by applying the rate, or the pricing method and charges, regularly used by the seller, for any other service or type of service, which he supplied during March, 1942, which price, however, shall not exceed a combination of the following items—

(1) An item for cost of direct labor used in supplying the service for which a price is sought, computed on a basis no higher than the highest wage rate which the seller had in effect for each type of employee during March, 1942, or if he had no wage rate in effect during such month, the highest wage rate which his competitors in the same area had in effect for each type of employee during March, 1942, plus

(2) An item for cost of materials used in supplying the service for which a price is being determined, computed on a basis no higher than the maximum prices, for purchase by the seller, established for such material by the Office of Price Administration, or if no maximum price has been established then the highest price which the seller, or a purchaser of the same class, had to pay for

such material in the month of March, 1942, plus

(3) The margin over such cost for direct labor and materials (i.e., subparagraph (1) plus subparagraph (2) equal, as a percentage of cost, to the average margin over direct labor and material cost which was figured on the service or type of service for which a price was charged by the seller during March, 1942, and which accounted for a greater portion of the seller's gross income from services than any other service during March, 1942, less

(4) All discounts and other allowances granted during March, 1942, to a purchaser of the same class.

Within ten days after determining the price under this paragraph the seller shall report such price to the "appropriate field office of the Office of Price Administration" upon Form No. 265:1. Such form shall be duly filled out in duplicate and may be copied from the form contained in Appendix A (1499.122) of this Maximum Price Regulation No. 165, as amended, or secured from the appropriate field office of the Office of Price Administration. The price so reported shall be subject to adjustment at any time by the Office of Price Administration.

R.M.P.R. 165

Copies of the pertinent portions of Part 1499 as included in R.M.P.R. 165, promulgated by the Administrator on July 1st, 1944. 8 F. R. 7439 et seq.

Maximum Price Regulation No. 165 as amended, services, is redesignated Revised Maximum Price Regulation No. 165 (Services) and is revised and amended to read as follows:

* * *

Section 1. Services covered. This regulation

covers the prices charged for all services except:

* * *

(d) The following services which remain under the General Maximum Price Regulation:

(1) Transportation services of contract carriers;

(2) Storage, warehousing and terminal services, and services incident thereto.

(3) The furnishing of electricity, gas, light, heat, power or water when the furnishing thereof is not subject to the requirements set forth in paragraph (c) of Revised Supplementary Regulation No. 11, 1499.46.

* * *

Sec. 4. General pricing provisions. In determining your maximum price, use the first of the following provisions which applies to you. Your maximum price shall be:

(a) The highest price at which you supplied the same service in March, 1942, to a purchaser of the same class. If, however, in March, 1942, you used a rate or a pricing method to determine your price, you may continue to use your highest March, 1942, rate or pricing method (using your highest March, 1942, charges) to determine your maximum price for the same service, to a purchaser of the same class.

(b) The highest price at which you offered to supply the same service for supply in March, 1942, to a purchaser of the same class, if you did not actually supply it in that month, or a price resulting from application of your highest March, 1942, rate or pricing method (using your highest March, 1942, charges to a purchaser of the same class) which would by your usual trade practice, have been used by you had you supplied the service in that month.

(c) The maximum price of your closest competitor for the same service to a purchaser of the

same class, if you did not actually supply it or offer it for supply in that month to any purchaser.

Sec. 5. Services which cannot be priced under section 4 (a). If you cannot determine a maximum price under section 4, you must file an application with the appropriate OPA district office for approval of a maximum price in line with the level of maximum prices otherwise established by this regulation. The application shall contain a description of the service, anticipated direct labor and material costs, and the proposed maximum price. It shall also contain a full explanation of the reasons why you cannot price this service under section 4. If you supplied any other service in March, 1942, submit, in addition, a description of the most comparable service showing your present direct labor and material costs for it and your present maximum price. You must also furnish any additional information which OPA may require.